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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,415

06/02/2006

Ulrich Maier

R.305913

3724

2119 7590 10/31/2008  
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EXAMINER

BROWN, PHYLLIS M

ART UNIT

PAPER NUMBER

3753

MAIL DATE

DELIVERY MODE

10/31/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,415	<b>Applicant(s)</b> MAIER ET AL.	
	<b>Examiner</b> MACADE BROWN	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/02/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Amendment***

This office action is responsive to the preliminary amendment filed on 6/02/06. As directed by the amendment: claims 1-9 have been cancelled, and claims 10-29 have been added. Thus, claims 10-29 are presently pending in this application.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 recites the limitation "the first conduit portion" and the second conduit portion" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

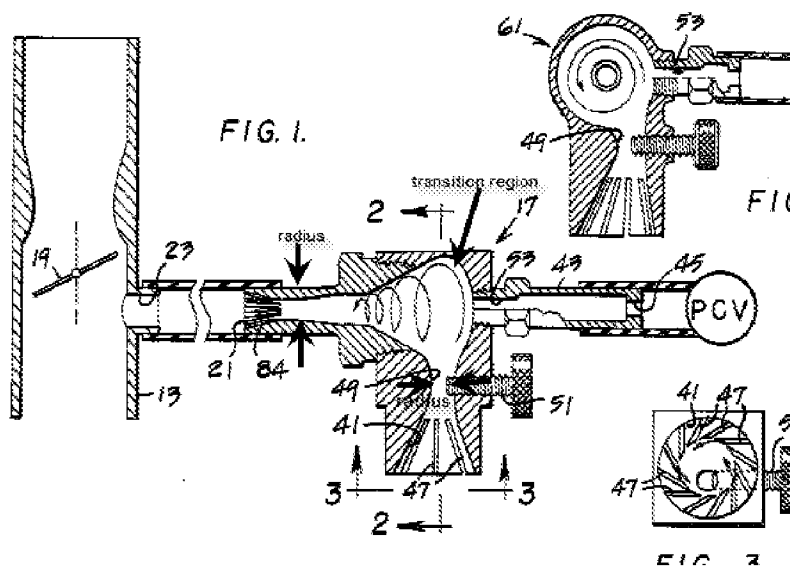
**Claims 10-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindberg (4, 131, 134).**

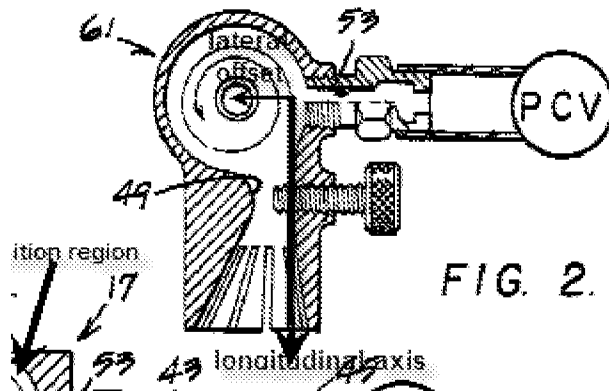
Regarding claims 10 and 11, Lindberg teaches a valve element (formed by slots 84; fig. 1) disposed in a valve chamber 13 and a fluid conduit 17 (chamber) adjoining

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the valve chamber 13 on the upstream side, the improvement wherein the fluid conduit 17 is embodied such that a rotation (swirl) about the longitudinal axis of the fluid conduit, as best understood, is impressed on the fluid stream that flows toward the valve chamber; wherein the fluid conduit 17 includes a first conduit portion 41 and a second conduit portion 21 adjoining the first conduit portion 41, the longitudinal axes of the first and second conduit portions 41/21 being at an angle  $<180$  [deg.] to one another, and the longitudinal axis of the first conduit portion 41 (fig. 5) being laterally offset from the longitudinal axis of the second conduit portion 21.

Regarding claims 12-18, Lindberg discloses the longitudinal axes of the first and second conduit portions 41/21 (fig. 1) are at least approximately at a right angle to one another; further including a cone element (cone shaped formed by slots 84) as the valve element; wherein the first and second conduit portions 41/21, in cross section, have at least approximately the same radius (see fig. 1 below); and wherein the lateral offset of the longitudinal axes is greater than the radius (see fig. 2 below).





Regarding claims 19-22, Lindberg discloses a transition region (see fig. 1 above) between the first conduit 41 and the second conduit portion 21. In regards to “the transition region being machined by means of electrochemical removal of material, the patentability of a product does not depend on its method of production. If the product in the product-by process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

Regarding claims 23-27, Lindberg discloses the transition region includes a wall that is curved from the first conduit portion 41 (fig. 1) to the second conduit portion 21.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindberg.**

Regarding claims 28 and 29, Lindberg discloses essentially all claimed features, but does not disclose the longitudinal axis of the first conduit portion and the longitudinal axis of the second conduit portion form an angle  $>90$  [deg.].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a first and second conduit portion  $>90$  [deg.], since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MACADE BROWN whose telephone number is (571)270-5428. The examiner can normally be reached on Mon-Thurs, 8am-4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. B./  
Examiner, Art Unit 3753

/John Rivell/  
Primary Examiner, Art Unit 3753